

EXHIBIT A

1 COOLEY LLP
BOBBY GHAJAR (198719)
2 (bghajar@cooley.com)
COLETTE GHAZARIAN (322235)
3 (cghazarian@cooley.com)
1333 2nd Street, Suite 400
4 Santa Monica, California 90401
Telephone: (310) 883-6400
5 MARK WEINSTEIN (193043)
(mweinstein@cooley.com)
6 KATHLEEN HARTNETT (314267)
(khartnett@cooley.com)
7 JUDD LAUTER (290945)
(jlauter@cooley.com)
8 ELIZABETH L. STAMESHKIN (260865)
(lstameshkin@cooley.com)
9 3175 Hanover Street
Palo Alto, CA 94304-1130
10 Telephone: (650) 843-5000

11 LEX LUMINA PLLC
MARK A. LEMLEY (155830)
12 (mlemley@lex-lumina.com)
745 Fifth Avenue, Suite 500
13 New York, NY 10151
Telephone: (646) 898-2055

14 CLEARY GOTTlieb STEEN & HAMILTON LLP
ANGELA L. DUNNING (212047)
15 (adunning@cgsh.com)
1841 Page Mill Road, Suite 250
16 Palo Alto, CA 94304
Telephone: (650) 815-4131
17

18 *Counsel for Defendant Meta Platforms, Inc.*

19 **UNITED STATES DISTRICT COURT**
20 **NORTHERN DISTRICT OF CALIFORNIA**

21 RICHARD KADREY, et al.,
22 Individual and Representative Plaintiffs,
23 v.
24 META PLATFORMS, INC., a Delaware
25 corporation;
26 Defendant.
27
28

Case No. 3:23-cv-03417-VC

**DEFENDANT META PLATFORMS, INC.'S
RESPONSES AND OBJECTIONS TO
PLAINTIFFS' SECOND SET OF
INTERROGATORIES**

Trial Date:
Date Action Filed: July 7, 2023

1 and undue burden and expense. Meta further objects to Instruction 11 to the extent that it purports
 2 to require Meta to investigate information outside of its possession, custody, or control. As such
 3 the Instruction is overly broad, as well. Subject to any objections applicable to a particular
 4 Interrogatory, Meta will conduct a reasonable, proportionate search for non-privileged, relevant,
 5 responsive information within its possession, custody, or control.

6 **19.** In responding to all Interrogatories, Meta will comply with the requirements of the
 7 Federal Rules of Evidence and Federal Rule of Civil Procedure 26.

8 **III. OBJECTIONS AND RESPONSES TO INDIVIDUAL INTERROGATORIES**

9 **INTERROGATORY NO. 1:**

10 State all facts on which you base Your contention that Your conduct constitutes fair use (17
 11 U.S.C. § 107).

12 **RESPONSE TO INTERROGATORY NO. 1:**

13 Meta incorporates by reference its objections and definitions above.

14 Meta objects to this Interrogatory as vague and ambiguous as to the phrase “Your conduct,”
 15 which is undefined and could refer to any conduct. Meta will construe this Interrogatory to seek
 16 information concerning Meta’s claim of fair use in connection with the conduct alleged in the
 17 Complaint (as construed above).

18 Meta objects to this Interrogatory as overbroad, unduly burdensome, and disproportionate
 19 to the needs of the case to the extent it seeks information that Meta does not intend to rely on to
 20 support a claim of fair use and calls for a lengthy narrative with regard to twelve different plaintiffs
 21 and more than forty works.

22 Meta objects to this Interrogatory to the extent it prematurely calls for expert testimony or
 23 identification of facts yet to be disclosed by Plaintiffs, and to the extent that it requires Meta to
 24 respond to legal arguments or theories not yet disclosed by Plaintiffs.

25 Finally, Meta objects to this Interrogatory because it exceeds Plaintiffs’ limit of 25
 26 Interrogatories under Rule 33(a)(1).

27 Subject to and without waiving the foregoing objections, and pursuant to the terms of the
 28 Protective Order, Meta responds as follows:

1 The alleged use of Plaintiffs' asserted works, to the extent it is shown to have occurred, is
 2 highly transformative in nature, because it adds something new, with a further purpose or different
 3 character, altering those works with considerable new expression, meaning, or message. To the
 4 extent Plaintiffs' works were used to train the Meta Language Models, the purpose was
 5 transformative both in terms of purpose and expression. With respect to purpose, Plaintiffs' works
 6 were allegedly used as data to train the models. In other words, the works were allegedly a part of
 7 a corpus of text (specifically, terabytes of text from a variety of sources), from which the models
 8 built complex statistical representations of language derived from the patterns, structures, and
 9 relationships between words within the corpus. This enables the models to predict the next word
 10 in a sequence, and thereby provide useful responses to any manner of input prompts. Such use of
 11 text material serves a fundamentally different purpose from the original texts on which the Meta
 12 Language Models were trained. *See e.g.*, Meta_Kadrey_00000001-00000077,
 13 Meta_Kadrey_00000078-00000104, Meta_Kadrey_00000224-00000248,
 14 Meta_Kadrey_00093669- Meta_Kadrey_00093760.

15 The text corpus used to train the Meta Language Models includes a large amount of textual
 16 materials, and to the extent Plaintiffs' works were used to train those models, they would constitute
 17 a tiny fraction of the textual training dataset (both individually and collectively). The purpose of
 18 the models, and the use of text datasets, is to create new, original textual output, not to reproduce
 19 the content of the datasets with which it was trained. This is demonstrated by, among other things,
 20 Meta's efforts to minimize the models' ability to memorize and/or output training data verbatim
 21 (*see e.g.*, Meta_Kadrey_00000277) and the wide variety of uses that have been made of the models.
 22 *See e.g.*, Meta_Kadrey_00092978-00093308, Meta_Kadrey_00062157. Indeed, all Plaintiffs have
 23 admitted that they are not aware of any output from any Meta Language Model that replicates any
 24 protected expression in their at-issue books. *See e.g.*, T. Coates 7/22/2024 Resps. & Objs. to Meta's
 25 2nd Set of RFAs, Resp. to RFA No. 24 (admitting, subject to objections, that Plaintiff is "personally
 26 unaware of any text generated by any of Meta's Llama models that infringes [Plaintiff's]
 27 ASSERTED WORKS."); J. Díaz 7/22/2024 Resps. & Objs. to Meta's 2nd Set of RFAs, Resp. to
 28 RFA No. 24 (same); C. Golden 7/22/2024 Resps. & Objs. to Meta's 2nd Set of RFAs, Resp. to

1 Dated: September 30, 2024

COOLEY LLP

2 By: /s/ Judd Lauter

3 Bobby Ghajar
4 Mark Weinstein
5 Kathleen Hartnett
6 Judd Lauter
7 Liz Stameshkin
8 Colette Ghazarian

9 LEX LUMINA PLLC
10 Mark A. Lemley

11 CLEARY GOTTlieb STEEN &
12 HAMILTON LLP
13 Angela L. Dunning

14 Attorneys for Defendant
15 META PLATFORMS, INC.